

**STATE OF CALIFORNIA  
DEPARTMENT OF PUBLIC HEALTH**

 **FILE COPY**

IN RE: CITY OF LIVINGSTON  
Water System No. 2410004

TO: Mr. Humberto Molina, Public Works Director  
City of Livingston  
1416 C Street  
Livingston, CA 95334

CC: Merced County Environmental Health Department  
Jose Antonio Ramirez, City Manager (same address)  
Nanda Gottiparthi, SNG Associates (5776 Stoneridge Mall Road, Suite  
370, Pleasanton, CA 94588)

**COMPLIANCE ORDER  
FOR VIOLATION OF THE  
ARSENIC MAXIMUM CONTAMINANT LEVEL**

**Issued on May 16, 2013**

Section 116655, Chapter 4 of the California Health and Safety Code authorizes the issuance of an Order for failure to comply with a requirement of the California Safe Drinking Water Act, or any regulation, standard, permit, or order issued thereunder.

**FINDINGS**

The City of Livingston water system (hereinafter "City") is a community water system located to the north of the City of Merced. The City serves a population of approximately 13,920 persons through 2,882 service connections. The City operates under a domestic water supply permit issued by the California Department of Public Health (hereinafter

“Department”) in January 1998. The City’s water system is supplied by eight groundwater wells and storage is provided by a 1.0 million gallon steel tank.

As of November 28, 2008, California adopted a revised maximum contaminant level (MCL) for arsenic of 0.010 mg/L. Under the Arsenic Rule, compliance with the 0.010 mg/L MCL is based on the average of the monitoring results for four consecutive quarters. If at any time, the average for fewer than four quarters is such that the MCL is certain to be exceeded regardless of additional sampling results; the source is immediately determined to be out of compliance. The water produced by Well No. 13 contains arsenic at a level above the MCL and has been deemed by the Department to be out of compliance.

The analytical results for arsenic sampling from Well No. 13 are tabulated below:

Sample Date	Arsenic Concentration (mg/L)	Running Annual Average (mg/L)
	Arsenic MCL = 0.010 mg/L	
5/26/09	0.011	<b>0.0104 mg/L</b>
7/14/09	0.011	
11/16/10	0.0094	
02/07/12	0.011	
03/01/12	0.0094	
05/22/12	0.010	<b>0.0102 mg/L</b>
03/05/13	0.0106	<b>0.010 mg/L</b>
03/12/13	0.0094	
04/09/13	0.013	<b>0.0107 mg/L</b>
4/30/13	0.0118	

The City recently completed a Feasibility Study which examines adding additional source capacity, adding additional storage capacity, and adding localized or centralized treatment

1 to provide water that complies with all the primary and secondary drinking water standards.  
2 A few of the City's wells produce water with arsenic approaching the MCL (Well No. 12),  
3 at the MCL (Well No. 15), and over the MCL (Well No. 16). Well No. 16 has an arsenic  
4 treatment removal plant onsite which is in the process of having a media change out. Well  
5 No. 16 should be back online by June 30, 2013.

6  
7 With the addition of Well No. 13, the City's combined source capacity is 7,700 gpm,  
8 which is enough source capacity to meet the maximum day demand (MDD). The City's  
9 MDD is 7,135 gpm (2.5 gpm/service connection). Peak hour demand (PHD) is calculated  
10 by multiplying the maximum day by a peaking factor of 1.5. Accordingly, the PHD for the  
11 City is 10,703 gpm (3.7 gpm/service connection). The City has just enough source  
12 capacity to meet MDD but less than is required to meet PHD.

13  
14 Well No. 13 was offline for several years and was recently brought back online in April  
15 2013. Being that the City's resources are stretched and the drought conditions in  
16 California, the urgency of providing wellhead treatment at this site is critical. The  
17 Department has requested a plan and schedule for providing additional source capacity  
18 from the City. The plan and time schedule are due by **June 30, 2013**.

19  
20 **CONCLUSIONS OF LAW**

21 Based on the above Findings, the Department has determined that the City of Livingston  
22 water system has violated provisions contained in the California Health and Safety Code  
23 and Title 22, California Code of Regulations (CCR). These violations include, but are not  
24 limited to the following:

1. Health and Safety (H&S) Code Section 116555(a)(1). Specifically, the City's water system is operating Well No. 13 that produces water that does not comply with all of the primary drinking water standards.
2. H&S Code Section 116555(a)(3). Specifically, the City's water system failed to ensure that a reliable and adequate supply of pure, wholesome, healthful, and potable water is provided to all of its consumers.
3. CCR Section 64431(a). Specifically, the water produced by the City's water system exceeds the maximum contaminant level of 0.010 mg/L for arsenic, and therefore, does not comply with a primary drinking water standard.

### **ORDER**

In order to ensure that the water supplied by the City of Livingston water system is at all times safe, wholesome, healthful, and potable, and pursuant to Section 116655 of the H&S Code, the water system is ordered to take the following actions:

1. (a) Cease and Desist from failing to comply with H&S Code Section 116555(a)(1) and (3) by ensuring that the system is provided with a reliable and adequate source of pure, wholesome, healthful, and potable water that is in compliance with all primary drinking water standards.
- (b) By **June 30, 2013**, submit to the California Department of Public Health, for review and approval, a plan to correct the existing water quality problem and eliminate the need to deliver water to the system that does not meet the primary drinking water standards. The plan shall include a time schedule

1 for completion of various phases of the project, such as design,  
2 construction, and start-up.

3  
4 (c) The City shall submit quarterly progress reports to the Department,  
5 beginning June 1, 2013.

6  
7 (d) The City must be in compliance with the primary drinking water standard  
8 for arsenic by **June 1, 2016**.

9  
10 2. The City shall continue to distribute the Department-approved notice (Attachment  
11 A) to all consumers. Notification to the public shall be **repeated every three**  
12 **months as long as the violation exists**. Proof of public notification (Attachment B)  
13 to all water system users shall continue to be provided to the Department following  
14 each quarterly notification by the 10<sup>th</sup> day of the month following notification. The  
15 first notice must be distributed to the City's customers by **June 1, 2013**. A copy of  
16 the Notice and Proof of Notification form are due to the Department by **June 10,**  
17 **2013**.

18  
19 3. Quarterly monitoring of the wells for arsenic must be conducted, preferably before  
20 each quarterly notice is released, so the notice can reflect the most recent sample  
21 results.

22  
23 4. The Department reserves the right to make such modifications to this Order as it  
24 may deem necessary to protect public health and safety. Such modifications may be  
25 issued as amendments to this Order and shall be effective upon issuance.

26  
27 5. All submittals required by this Order shall be addressed to:

1 Carl L. Carlucci, P.E., Supervising Sanitary Engineer  
2 California Department of Public Health  
3 Drinking Water Field Operations  
4 265 W. Bullard Avenue, Suite 101  
5 Fresno, CA 93704

- 6 6. If the City is unable to perform the tasks specified in this Order for any reason,  
7 whether within or beyond its control, and if the City notifies the Department in  
8 writing no less than five days in advance of the due date, the Department may  
9 extend the time for performance if the City demonstrates that it has used its best  
10 efforts to comply with the schedule and other requirements of this Order.
- 11 7. If the City fails to perform any of the tasks specified in this Order by the time  
12 described herein or by the time subsequently extended pursuant to Item 6 above, the  
13 City shall be deemed to have not complied with the obligations of this Order and  
14 may be subject to additional judicial action, including civil penalties specified in  
15 H&S Code, Section 116725 and 116730.
- 16 8. The State of California shall not be liable for any injuries or damages to persons or  
17 property resulting from acts or omissions by the City, its employees, agents, or  
18 contractors in carrying out activities pursuant to this Order, nor shall the State of  
19 California be held as a party to any contract entered into by the City or its agents in  
20 carrying out activities pursuant to this Order.


21  
22  
23 **PARTIES BOUND**

24 This Order shall apply to and be binding upon the City, its officers, directors, agents,  
25 employees, contractors, successors, and assignees.  
26  
27

**SEVERABILITY**

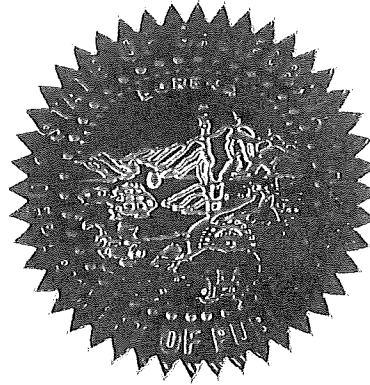
The requirements of this Order are severable, and the City shall comply with each and every provision thereof notwithstanding the effectiveness of any provisions.

5-16-2013  
Date

  
Carl L. Carlucci, P.E.  
Supervising Sanitary Engineer  
Central California Section  
SOUTHERN CALIFORNIA BRANCH  
DRINKING WATER FIELD OPERATIONS

Attachment A: Public Notification Notice  
Attachment B: Proof of Notification Form

CLC/mrw/2410004/03-11-13R-002-2410004-02.doc







## Instructions for Tier 2 Arsenic MCL Notice Template

### Template Attached

Since exceeding the arsenic maximum contaminant level (MCL) is a Tier 2 violation, you must provide public notice to persons served as soon as practical but within 30 days after you learn of the violation [California Code of Regulations Title 22, Chapter 15, Section 64463.4(b)]. **Each water system required to give public notice must submit the notice to the Department for approval prior to distribution or posting, unless otherwise directed by the Department [64463(b)].**

### Notification Methods

You must use the methods summarized in the table below to deliver the notice to consumers. If you mail, post, or hand deliver, print your notice on letterhead, if available.

<i>If You Are a...</i>	<i>You Must Notify Consumers by...</i>	<i>...and By One or More of the Following Methods to Reach Persons Not Likely to be Reached by the Previous Method...</i>
Community Water System [64463.4(c)(1)]	Mail or direct delivery <sup>(a)</sup>	Publication in a local newspaper
		Posting in public places served by the water system or on the Internet <sup>(b)</sup>
		Delivery to community organizations
Non-Community Water System [64463.4(c)(2)]	Posting in conspicuous locations throughout the area served by the water system <sup>(b)</sup>	Publication in a local newspaper or newsletter distributed to customers
		Email message to employees or students
		Posting on the Internet or intranet <sup>(b)</sup>
		Direct delivery to each customer

(a) Notice must be distributed to each customer receiving a bill including those that provide their drinking water to others (e.g., schools or school systems, apartment building owners, or large private employers), and other service connections to which water is delivered by the water system.

(b) Notice must be posted in place for as long as the violation or occurrence continues, but in no case less than seven days.

The notice attached is appropriate for the methods described above. However, you may wish to modify it before using it for posting. If you do, you must still include all the required elements and leave the health effects and notification language in italics unchanged. This language is mandatory [64465].

### Multilingual Requirement

Spanish. Each public notice must contain information in Spanish regarding (1) the importance of the notice or (2) contain a telephone number or address where Spanish-

speaking residents may contact the water system to obtain a translated copy of the public notice or assistance in Spanish.

*Non-English Speaking Groups Other than Spanish-Speaking.* For each group that exceeds 1,000 residents or 10% of the residents in the community served, whichever is less, the public notice must (1) contain information in the appropriate language(s) regarding the importance of the notice or (2) contain a telephone number or address where such residents may contact the water system to obtain a translated copy of the notice or assistance in the appropriate language.

### **Population Served**

Make sure it is clear who is served by your water system -- you may need to list the areas you serve.

### **Corrective Action**

In your notice, describe corrective actions you are taking. Do not use overly technical terminology when describing treatment methods. Listed below are some steps commonly taken by water systems with chemical or radiological violations. Use one or more of the following actions, if appropriate, or develop your own:

- "We are working with [local/state agency] to evaluate the water supply and researching options to correct the problem. These options may include treating the water to remove arsenic or connecting to [system]'s water supply."
- "We have stopped using the contaminated well. We have increased pumping from other wells, and we are investigating drilling a new well."
- "We will increase the frequency at which we test the water for arsenic."
- "We have since taken samples at this location and had them tested. They show that we meet the standards."

### **After Issuing the Notice**

Send a copy of each type of notice and a certification that you have met all the public notice requirements to the Department within ten days after you issue the notice [64469(d)]. You should also issue a follow-up notice in addition to meeting any repeat notice requirements the Department sets.

It is recommended that you notify health professionals in the area of the violation. People may call their doctors with questions about how the violation may affect their health, and the doctors should have the information they need to respond appropriately.

It is a good idea to issue a "problem corrected" notice when the violation is resolved.

## IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Este informe contiene información muy importante sobre su agua potable.

Tradúzcalo o hable con alguien que lo entienda bien.

### The City of Livingston Has Levels of Arsenic Above the Drinking Water Standard

Our water system recently violated a drinking water standard. Although this is not an emergency, as our customers, you have a right to know what you should do, what happened, and what we are doing to correct this situation.

We routinely monitor for the presence of drinking water contaminants. Water sample results received on [date] from Well No. 13 showed arsenic levels of [level and units]. This is above the U.S. EPA standard, or maximum contaminant level (MCL) of 0.010 milligrams per liter. The average arsenic concentrations from Well No. 13 ranged from \_\_\_\_\_ mg/L to \_\_\_\_\_ mg/L.

#### What should I do?

- **You do not need to use an alternative water supply (e.g., bottled water).**
- This is not an emergency. If it had been, you would have been notified immediately. However, *some people who drink water containing arsenic in excess of the MCL over many years may experience skin damage or circulatory system problems, and may have an increased risk to getting cancer.*
- If you have other health issues concerning the consumption of this water, you may wish to consult your doctor.

#### What happened? What is being done?

[Describe corrective action]. We anticipate resolving the problem within [estimated time frame].

For more information, please contact Humberto Molina at City of Livingston at 209-394-8044 or 1416 C Street, Livingston, CA 95334.

*Please share this information with all the other people who drink this water, especially those who may not have received this notice directly (for example, people in apartments, nursing homes, schools, and businesses). You can do this by posting this public notice in a public place or distributing copies by hand or mail.*

### **Secondary Notification Requirements**

Upon receipt of notification from a person operating a public water system, the following notification must be given within 10 days [Health and Safety Code Section 116450(g)]:

- **SCHOOLS:** Must notify school employees, students, and parents (if the students are minors).
- **RESIDENTIAL RENTAL PROPERTY OWNERS OR MANAGERS** (including nursing homes and care facilities): Must notify tenants.
- **BUSINESS PROPERTY OWNERS, MANAGERS, OR OPERATORS:** Must notify employees of businesses located on the property.

This notice is being sent to you by the City of Livingston.

State Water System ID#: 2410004. Date distributed: \_\_\_\_\_.

## Attachment B

### PROOF OF NOTIFICATION

(Return with copy of the Notice)

As required by Section 116450 of the California Health and Safety Code, I notified all users of water supplied by the **City of Livingston** of the failure to meet the **Arsenic MCL (Well No. 13)** for the:

Circle one: 1<sup>st</sup> 2<sup>nd</sup> 3<sup>rd</sup> 4<sup>th</sup> quarter of \_\_\_\_\_ (year).

Notification was made on \_\_\_\_\_ by \_\_\_\_\_  
(date)

hand delivered and/or mailed and/or posted written notice.  
(circle all completed)

\_\_\_\_\_  
Signature of Water System Representative

\_\_\_\_\_  
Date

DISCLOSURE: Be advised that Section 116725 and 116730 of the California Health and Safety Code state that any person who knowingly makes any false statement on any report or document submitted for the purpose of compliance with the attached order may be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for separate violation for each day that violation continues. In addition, the violators may be prosecuted in criminal court and upon conviction, be punished by a fine of not more than \$25,000 for each day of violation, or be imprisoned in the county jail not to exceed one year, or by both the fine and imprisonment.

Due to the Dept. of Public Health within 10 days of notification to the public:

Arsenic MCL Exceedance

System Number: 2410004



Do your part to help California save energy. To learn more about saving energy, visit the following web site:  
<http://www.fypower.org>

**Southern California Drinking Water Field Operations Branch**

265 W. Bullard Avenue, Suite 101, Fresno, CA 93704

(559) 447-3300; Fax (559) 447-3304

Internet Address: <http://www.cdph.ca.gov/programs/Pages/DDWEM.aspx>

